



April 6, 2001

ENGROSSED HOUSE BILL No. 1120

DIGEST OF HB 1120 (Updated April 4, 2001 6:41 PM - DI 104)

Citations Affected: IC 27-7.

Synopsis: Mine subsidence insurance. Extends a sunset provision to December 31, 2006 on the requirement that an insurer inform a prospective policyholder of the availability of mine subsidence insurance. Beginning January 1, 2002, increases the maximum limit of mine subsidence coverage that an insurer agrees to cede to the commissioner of the department of insurance under a reinsurance agreement, from \$100,000 to \$200,000 per structure insured.

Effective: July 1, 2001.

Becker, Hasler, Avery, Crooks, Stilwell, Denbo

(SENATE SPONSORS — SERVER, YOUNG R)

January 9, 2001, read first time and referred to Committee on Insurance, Corporations and Small Business.

February 8, 2001, amended, reported — Do Pass.

February 12, 2001, read second time, amended, ordered engrossed.

February 13, 2001, engrossed. Read third time, passed. Yeas 95, nays 0.

SENATE ACTION

February 27, 2001, read first time and referred to Committee on Insurance and Financial Institutions.

April 5, 2001, amended, reported favorably — Do Pass.

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April 6, 2001

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

ENGROSSED HOUSE BILL No. 1120

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 27-7-9-8 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JANUARY 1, 2002]: Sec. 8. (a) Coverage for damage
3 due to mine subsidence must be available as an additional form of
4 coverage under any insurance policy providing the type of insurance
5 described in Class 3(a) of IC 27-1-5-1 to directly cover one (1) or more
6 structures located in a county identified under section 6 of this chapter.
7 The mine subsidence coverage must be available in an amount
8 adequate to indemnify the insured to the extent of the loss in actual
9 cash value of the covered structure due to mine subsidence, less a
10 deductible equal to two percent (2%) of the insured value of the
11 structure under the policy. However, the deductible must be no less
12 than two hundred fifty dollars (\$250) and no more than five hundred
13 dollars (\$500).
14 (b) An insurer proposing to issue a policy providing the type of
15 insurance described in Class 3(a) of IC 27-1-5-1 to cover one (1) or
16 more structures located in a county identified under section 6 of this
17 chapter shall inform the prospective policyholder of the availability of

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mine subsidence coverage under this section. An insurer shall inform the prospective policyholder of the availability of mine subsidence coverage under this subsection when a policy described in this subsection is issued. However, an insurer is not required to inform a prospective policyholder of the availability of mine subsidence coverage if the issuance of the policy will take place after ~~June 30, 2000~~; **December 31, 2006**.

(c) When an insurer informs a prospective policyholder of the amount of the premium for the mine subsidence coverage that is available as an additional form of coverage under a policy as required by subsection (a), the premium for the mine subsidence coverage must be stated separately from the premium for the other coverage provided by the policy. The amount of the premium for mine subsidence coverage provided by an insurer under this section must be set according to the premium level set by the commissioner under section 10 of this chapter.

(d) Except as provided in subsection (f), an insurance policy providing the type of insurance described in Class 3(a) of IC 27-1-5-1 to directly cover one (1) or more structures located in a county identified under section 6 of this chapter must include the mine subsidence coverage provided for under subsection (a) if the prospective insured (before issuance of the policy) or the insured (before renewal of the policy) indicates that the coverage is to be included in the policy.

(e) An insurer is not required to provide mine subsidence coverage under subsection (a) under any insurance policy in an amount exceeding the amount that is reimbursable from the fund under section 9(a)(4) of this chapter.

(f) An insurer must decline to make the mine subsidence coverage provided for under subsection (a) available to cover a structure evidencing unrepaired mine subsidence damage, until necessary repairs are made. An insurer may also decline to make the mine subsidence coverage available under an insurance policy if the insurer has:

- (1) declined to issue the policy;
- (2) declined to renew the policy; or
- (3) canceled all coverage under the policy for underwriting reasons unrelated to mine subsidence.

SECTION 2. IC 27-7-9-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 9. (a) An insurer making the type of insurance described in Class 3(a) of IC 27-1-5-1 shall enter into a reinsurance agreement with the commissioner. The reinsurance agreement must include the following terms:

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(1) The insurer agrees to cede to the commissioner one hundred percent (100%) of any mine subsidence coverage issued under this chapter, subject to a maximum limit of ~~one~~ **two** hundred thousand dollars (~~\$100,000~~) (**\$200,000**) per structure insured.

(2) The insurer shall collect the premiums for mine subsidence insurance, may retain a ceding commission in an amount set by the commissioner, and shall remit the remainder of the premiums to the commissioner for deposit in the mine subsidence insurance fund.

(3) The insurer, in consideration of the ceding commission, shall:

(A) undertake the adjustment of losses under the mine subsidence coverage issued under this chapter by the insurer, with technical assistance provided under section 9.5 of this chapter; and

(B) pay the taxes and absorb all other expenses necessarily incurred by the insurer in the sale of policies and the administration of the mine subsidence insurance program under this chapter.

(4) The commissioner shall reimburse the insurer from the mine subsidence insurance fund for all amounts paid to policyholders for mine subsidence insurance claims.

(5) The insurer is not required to pay a claim for any mine subsidence loss insured under this chapter if the amount available in the mine subsidence insurance fund is insufficient to reimburse the insurer for the claim.

(b) The determination of the commissioner as to the amount of the ceding commission that an insurer may retain under subsection (a)(2) must be based on a consideration of the insurer's reasonable administrative costs (including agents' commissions).

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, Corporations and Small Business, to which was referred House Bill 1120, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 27-7-9-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 8. (a) Coverage for damage due to mine subsidence must be available as an additional form of coverage under any insurance policy providing the type of insurance described in Class 3(a) of IC 27-1-5-1 to directly cover one (1) or more structures located in a county identified under section 6 of this chapter. The mine subsidence coverage must be available in an amount adequate to indemnify the insured to the extent of the loss in actual cash value of the covered structure due to mine subsidence, less a deductible equal to two percent (2%) of the insured value of the structure under the policy. However, the deductible must be no less than two hundred fifty dollars (\$250) and no more than five hundred dollars (\$500).

(b) An insurer proposing to issue a policy providing the type of insurance described in Class 3(a) of IC 27-1-5-1 to cover one (1) or more structures located in a county identified under section 6 of this chapter shall inform the prospective policyholder of the availability of mine subsidence coverage under this section. An insurer shall inform the prospective policyholder of the availability of mine subsidence coverage under this subsection when a policy described in this subsection is issued. ~~However, an insurer is not required to inform a prospective policyholder of the availability of mine subsidence coverage if the issuance of the policy will take place after June 30, 2000.~~

(c) When an insurer informs a prospective policyholder of the amount of the premium for the mine subsidence coverage that is available as an additional form of coverage under a policy as required by subsection (a), the premium for the mine subsidence coverage must be stated separately from the premium for the other coverage provided by the policy. The amount of the premium for mine subsidence coverage provided by an insurer under this section must be set according to the premium level set by the commissioner under section 10 of this chapter.

(d) Except as provided in subsection (f), an insurance policy providing the type of insurance described in Class 3(a) of IC 27-1-5-1

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to directly cover one (1) or more structures located in a county identified under section 6 of this chapter must include the mine subsidence coverage provided for under subsection (a) if the prospective insured (before issuance of the policy) or the insured (before renewal of the policy) indicates that the coverage is to be included in the policy.

(e) An insurer is not required to provide mine subsidence coverage under subsection (a) under any insurance policy in an amount exceeding the amount that is reimbursable from the fund under section 9(a)(4) of this chapter.

(f) An insurer must decline to make the mine subsidence coverage provided for under subsection (a) available to cover a structure evidencing unrepaired mine subsidence damage, until necessary repairs are made. An insurer may also decline to make the mine subsidence coverage available under an insurance policy if the insurer has:

- (1) declined to issue the policy;
- (2) declined to renew the policy; or
- (3) canceled all coverage under the policy for underwriting reasons unrelated to mine subsidence."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1120 as introduced.)

CROOKS, Chair

Committee Vote: yeas 13, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1120 be amended to read as follows:

Page 3, line 2, strike "one" and insert "**two**".

Page 3, line 2, delete "**fifty**".

Page 3, line 3, delete "**\$150,000**" and insert "**\$200,000**".

(Reference is to HB 1120 as printed February 9, 2001.)

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COMMITTEE REPORT

Mr. President: The Senate Committee on Insurance and Financial Institutions, to which was referred House Bill No. 1120, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Replaces the effective date in SECTION 1 with "[EFFECTIVE JANUARY 1, 2002]".

Page 2, line 3, reset in roman "However, an insurer is not required to inform a".

Page 2, reset in roman line 4.

Page 2, line 5, reset in roman "coverage if the issuance of the policy will take place after".

Page 2, line 6, after "2000." insert "**December 31, 2006.**".

and when so amended that said bill do pass.

(Reference is to HB 1120 as reprinted February 13, 2001.)

PAUL, Chairperson

Committee Vote: Yeas 6, Nays 0.

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